

II. REMARKS

A. Introduction

In the July 16, 2008 Office Action, claims 1-4, 6 and 7 are rejected and claims 17-19 are withdrawn.

In summary of this Response, claims 1-4, 6 and 7 have been canceled, new claims 22-34 are added, and remarks are provided.

B. Support for New Claims

New claim 22 finds support, e.g., in Figs. 1-3B, and numbered paragraphs [0015] – [0017], [0025]-[0027] and [0029]-[0030].

New claims 23-25 find support, e.g., in Figs. 1, 2 and 4, and numbered paragraphs [0025]-[0027].

New claim 26 finds support, e.g., in Fig. 3B and numbered paragraph [0030].

New claim 27 finds support, e.g., in Figs. 3A and numbered paragraph [0030].

New claim 28 finds support, e.g., in Figs. 1, 2 and 4 and numbered paragraph [0026].

New claim 29 finds support, e.g., in Fig. 3B and numbered paragraph [0031].

New claim 30 finds support, e.g., in Fig. 3A and numbered paragraph [0031].

New claims 31 and 32 find support, e.g., in numbered paragraph [0019].

New claim 33 finds support, e.g., in numbered paragraph [0029].

New claim 34 finds support, e.g., in numbered paragraph [0035].

C. Rejection of Claims

Prior claims 1-4 had been rejected as being anticipated by, and claims 6-7 had been rejected as being rendered obvious by, Grieshaber et al., U.S. Patent No. 5,716,328 (hereinafter the '328 patent).

As noted above, claims 1-4 and 6-7 have been canceled. However, it is respectfully submitted that the present invention, as recited by new claims 22-34, was neither anticipated by nor rendered obvious by the cited reference.

Initially, the present invention includes structure that has been found to favorably retain a lens capsule. See, e.g., numbered paragraphs [0002] – [0004] of the present application. In this regard, the present invention is a device that has a similar purpose and some similar structure, as described below, to that of Mackool, USP 6,183,480, of record.

In contrast, the device of the cited '328 patent is for retracting an iris. Devices for retaining the lens capsule and devices for retracting an iris necessarily have different structural

requirements (compare the eye anatomy in Fig. 3 of Mackool for the respective structures and positions of the lens capsule 40 and iris 50). Lens capsule retainers and iris retractors are not known by those of ordinary skill to be interchangeable, as discussed below.

Figs. 5 and 6, Col. 1, lines 45-58, Col. 4, lines 55-67 and Col. 5, lines 1-11 of Mackool expressly show and describe the iris retractor of the '328 reference. Mackool clearly teaches away from the use of such a device for retaining a lens capsule as follows: "such iris retractors ... [are] unreliable for such use in retracting the lens capsule." See, e.g., Col. 1, lines 53-54. Thus, it is not believed that one of ordinary skill would consider the '328 reference when seeking to improve upon lens capsule retainers.

Instead, Mackool, in an effort to improve upon lens capsule retractors, merely bends one end of a rod to form a hook, which device suffers the disadvantages discussed at numbered paragraphs [0007], [0010] and [0049] of the present application. Also, structurally, the hook or shank of Mackool is intended to be positioned on the underside of the lens capsule (Col. 3, lines 49-50).

On the other hand, while the present invention and Mackool both include a linear handle portion and a bent end (see, e.g., Fig. 2 of Mackool), the present invention includes other features, most particularly the "planar pad" at the free portion of the bent end, which pad pushes against a lens capsule equatorial region (see Fig. 4 of the present application), resulting in improved lens capsule retention.

In specific regard to the '328 reference, same is an apparatus 50 having two connected rods 10, each having a linear portion 30 and a hook-shaped member 15 including a shank 13 and an arch 12. Each shank 13 of this iris retractor extends parallel (i.e., not angulated) relative to each respective linear portion, or body 30. See, e.g., Col. 3, lines 18-24 and Fig. 2. The hook-shaped members 15 are configured in this way to allow pulling a large portion of the iris. See, e.g., Col. 1, lines 55-60, Fig. 9, and Col. 4, lines 57-63.

The '328 reference does not teach a single rod with an angled portion terminating in a planar pad, as recited herein, that pushes an equatorial region of a lens capsule. In the '328 device, the shanks 13 are each parallel to the linear body 30. In the present invention, the planar pad is recited as not being parallel to the linear portion of the handle.

Further, while the Office Action makes reference to angle alpha in Fig. 7 of the '328 reference, the present invention, as recited herein, includes no such angle. The '328's angle alpha measures a space between the two hook-shapes members 15 formed by having the shafts 10 rotated relative to an axis therealong. In contrast, the present invention includes the single rod, wherein one end includes a planar pad that is formed non-parallel to the linear portion

of the handle. Even in the embodiments recited in claims 23-25 including two tips, the tips diverge at an angle with respect to each other. That is, the angle relates to how the tips diverge from each other, not a space or arc formed between two parallel shanks 15.

In light of these structural differences, it is respectfully submitted that each and every feature of the invention recited by new claims 22-34 is not disclosed by the '328 reference. Further, it is respectfully submitted that one of ordinary skill, upon seeking to improve upon a lens capsule retainer would not be taught the present invention based on the iris retractor device of the '328 reference. Further, even if one were to consider the '328 reference for guidance, the '328 reference does not suggest how its structure could be modified, or why it would be modified to include at least the planar pad as recited herein.

III. Conclusion

In light of the above amendments and remarks, it is respectfully submitted that claims 22-34 are now in condition for allowance.

If there are any additional fees associated with this Response, please charge same to our Deposit Account No. 19-3935.

Finally, if there are any formal matters remaining after this Response, the undersigned would appreciate a telephone conference with the Examiner to attend to these matters.

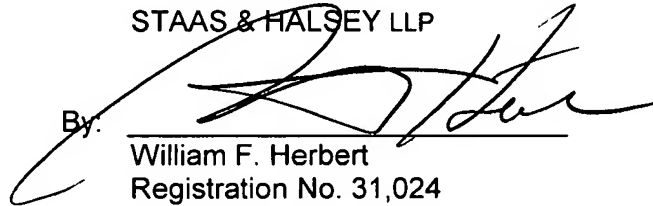
Respectfully submitted,

STAAS & HALSEY LLP

Date:

9/25/08

By:



William F. Herbert
Registration No. 31,024

1201 New York Ave, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501